In the High Court of Punjab and Haryana, Chandigarh.

Civil Revision No. 6413 of 2007

Date of Decision: 13.12.2007

Gursharan Kaur

…Petitioner

Versus

Narinder Singh and Another

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Puneet Jindal, Advocate
for the petitioner.

RAJESH BINDAL, J.

Challenge in the present petition is to the order dated July 21, 2007 passed by learned Civil Judge (Senior Division), Jalandhar, whereby it has been ordered that petitioner/defendant No.1 has lost right to file written statement.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents as the same would unnecessarily delay not only disposal of the present petition but the suit as well.

Learned counsel for the petitioner submitted that on receiving the summons, she asked her son to engage a lawyer and to do the needful. On her inquiries she came to know that Mr. Davinder Modgil, Advocate, was engaged on behalf of petitioner/defendant No.1 on 20.4.2007. He further submitted that necessary documents were not supplied to the counsel and on this account, the written statement could not be filed. He further submitted that the petitioner/defendant No.1 was having no knowledge about these developments. He further submitted that on coming to know about the impugned order, she contacted another lawyer and got the record inspected and came to know that some persons have filed an application under Order 1 Rule 10 CPC for their impleadment as defendant in the suit. He further

submitted that in case the petitioner/defendant No.1 is not allowed to file written statement, she will suffer an irreparable loss with regard to her valuable property, the value of which is Rs. 3,40,00,000/-. It has been prayed that the petitioner/defendant No.1 may be permitted to file written statement .

After hearing learned counsel for the petitioner, I find merit in the contention raised by him.

It has been consistently opined by Hon'ble the Supreme Court in ***Kailash v. Nanhku and Others 2005(4) Judgment Today SC 204; Salem Advocate Bar Association, Tamil Nadu v. Union of India, Judgment Today SC 486*** and ***M/s R.N.Jaidi & Brothers and Others v. Subhashchandra 2007(9) Judgment Today SC 165*** that Order VIII Rule 1 CPC which provides time for filing of written statement is directory in nature.

It is not evident from the facts of the present petition that the intention of petitioner/defendant No.1 was to delay the proceedings after she had put in appearance in the suit on receiving summon. The suit is still at preliminary stage as the application filed under Order 1 Rule 10 CPC for impleading of parties is being considered. Accordingly, the petition is accepted. The petitioner/defendant No.1 is granted time to file written statement before learned trial Court on or before December 21, 2007 and the case will proceed further as per the schedule already fixed by the Court.

The revision petition is disposed of in the manner indicated above.

(Rajesh Bindal)
Judge

December 13, 2007
"DK"